

REMARKS

The present application has been reviewed in light of the Office Action mailed September 26, 2003 and the telephone conference between the examiner and the undersigned on even date herewith. In the Office Action, the amendment filed August 25, 2003 was deemed non-responsive for improper amendment format. The claims in the amendment have been revised to comply with 37 C.F.R. § 1.173(d).

Applicants appreciate the Examiner's thorough examination of this case, as set forth in the May 7, 2003 Office Action. By the present amendment it is believed that all issues raised by the Examiner have been addressed and that the present application is in condition for allowance.

In response to the Examiner's request that the related application data set forth in the specification be updated, applicants have reviewed the declaration of parent application serial number 08/002,535, formerly U.S. patent 5,882,350 and now RE 37,665, and have discovered that priority in parent application serial number 08/002,535 was claimed to U.S. patent application serial number 08/843,972 filed April 17, 1997, now U.S. patent 5,888,204 and to U.S. patent application serial number 08/606,221 filed February 23, 1996, now U.S. patent 5,607,426, which is a continuation-in-part of U.S. patent application serial number 08/421,087 filed April 13, 1995, now U.S. patent 5,520,690. Thus, the related application data shown on the face of issued U.S. patent 5,882,350 is incorrect. Further investigation has revealed that this error occurred when now abandoned U.S. patent application serial number 08/835,909 filed April 10, 1997 was re-filed with different claims as the application that became U.S. patent application

serial number 09/002,535, now U.S. patent 5,882,350. The related application data section of U.S. patent application serial number 09/002,535 should have been updated to reflect the application priority set forth in the declaration of that case. In addition, because abandoned U.S. patent application serial number 08/835,909 was co-pending with U.S. patent application serial number 09/002,535, priority to that abandoned application, which was co-pending with and claims priority to U.S. patent application serial number 08/663,383 filed June 16, 1996, now U.S. patent 5,669,911 also is appropriate.

Thus, the priority of the present application through parent patent 5,669,911 to U.S. patent 5,520,690 is preserved, and priority through U.S. patents 5,888,204 and 5,607,426 to the same U.S. patent 5,520,690 also exists. For purposes of the present amendment, it is not believed that these facts alter any basis for the Examiner's thorough claim by claim analysis regarding the effective filing date of each claim in this case. Applicants extend their apologies to the Examiner for any confusion caused by these corrections.

Applicants respectfully traverse the Examiner's determination that Claims 12 and 13 are entitled only to an effective filing date of January 2, 1998 and the rejection of these claims over Errico U.S. patent 5,531,746. However, in order to advance prosecution of this case, claim 12 has been canceled without prejudice to presentation of this claim in a further continuation application.

Applicants note that the Examiner believes claims 14 and 15 have an effective filing date of January 2, 1998. In view of the fact that no rejection of these claims based upon prior art has been interposed, claim 14 has been amended in independent form to

include all limitations of canceled claim 12, and is believed to be in condition for allowance. Claim 13 has been amended to depend from claim 14 and claims 13-15 are therefore believed to be in condition for allowance.

Applicants respectfully traverse the Examiner's determination that claims 16 and 17 are entitled to an effective filing date of June 13, 1996, and that Biederman U.S. patent 5,672,176 therefore constitutes prior art to these claims under 35 U.S.C. §102(e). In order to advance prosecution of this case however, claim 16 has been canceled without prejudice to presentation of such claim in a further continuation application. Claim 18 has been amended into independent form to include all limitations of former claim 16, and claim 17 has been amended to depend from claim 18, as amended. Thus, claims 17 and 19 now depend from amended claim 18 and claims 17-19 are believed to be in condition for allowance.

Applicants respectfully traverse the Examiner's determination that claims 20-23 are entitled to an effective filing date of January 2, 1998, and the rejection of claims 20-22 over Biederman '176. In the interest of advancing prosecution of this case, claim 20 has been amended to include the limitations of former claims 22 and 23. Claim 20 also has been amended to address the informalities identified by the Examiner at page 5 of the May 7, 2003 Office Action, and new claim 48 has been added consistent with the Examiner's understanding of the operation of the device disclosed in the specification. Because claim 23 was not rejected over Biederman claims 20-21, as amended, are believed to be in condition for allowance.

Applicants note that the Examiner believes claims 31-36 are entitled to an effective filing date of January 2, 1998. In view of the fact that no rejection of these

claims based upon prior art has been interposed, and the claims appear to be allowable, no further comment is believed necessary at this time.

Applicants note the Examiner's determination that claims 37-38 and 40-42 are entitled to the April 13, 1995 filing date of U.S. Patent 5,520,690. Inasmuch as no rejection of these claims based upon prior art has been interposed, and the claims appear to be allowable in view of the amendments made herein to address informalities identified by the Examiner, no further comment is believed necessary at this time.

Applicants respectfully traverse the Examiner's rejection of claim 39, but have canceled claim 39 without prejudice in order to advance prosecution of this case.

Applicants respectfully traverse the Examiner's determination that claims 43-47 are entitled only to an effective filing date of June 13, 1996, and the related rejection of several of these claims over Biedermann '176. In order to advance prosecution of this case, applicants have canceled claims 43-47 without prejudice to presentation of such claims in a further filed application.

Applicants expressly reserve the right to contest the effective filing dates assigned to specific claims by the Examiner. Applicants further reserve the right to present original claims 20-22 and 24-30 in a continuation application.

In view of the Examiner's determination that at least some of the claims pending in the present application are entitled to an effective filing date of April 13, 1995, the addition of Thomas J. Errico and Joseph P. Errico to this case, as inventors, is believed to be appropriate. Accordingly, the following were previously submitted with the amendment filed August 25, 2003 and are not being resubmitted herewith:

- (i) petition to correct the inventorship to include Joseph P. Errico and

Thomas J. Errico;

(ii) statements of lack of deceptive intent by Joseph P. Errico and

Thomas J. Errico;

(iii) consent by assignee, Fastenetix, LLC, to addition of inventors

(iv) supplemental declaration signed by all inventors; and

(v) a revocation and substitute power of attorney

(vi) an appropriate terminal disclaimer

In view of the foregoing, the present application is believed to be in condition for allowance, and issuance of a timely notice of allowance is earnestly solicited.

Respectfully submitted,



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